

JOHN R. GREEN
Interim United States Attorney
CAROL A. STATKUS
NICHOLAS VASSALLO
Assistant United States Attorneys
P.O. Box 668
Cheyenne, WY 82003-0668
Telephone: 307-772-2124
Facsimile: 307-772-2123

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

| | | |
|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 06-CV-0184J |
| |) | and |
| |) | Consolidated Case |
| WYOMING AND COLORADO |) | No. 06-CV-171J |
| RAILROAD COMPANY, INC., |) | |
| et al. |) | |
| |) | |
| Defendants. |) | |

UNITED STATES' RESPONSE TO MOTION OF
DEFENDANT/CROSS-CLAIMANT MARVIN M. BRANDT FOR ORAL HEARING
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

Plaintiff United States of America, by and through the United States Attorney for the District of Wyoming and Assistant United States Attorneys Carol A. Statkus and Nicholas Vassallo, responds to the Motion for Oral Hearing on Cross-Motions for Summary Judgment filed by Defendant/Cross-Claimant Marvin M. Brandt as follows:

As noted in Brandt's motion, the United States takes no position on the request for oral argument. The Court is in the best position to determine whether oral argument would assist it in determining the issues raised by the cross-motions for summary judgment. If the Court feels oral argument would be helpful, the United States would be pleased to orally present its arguments to the Court. On the other hand, if the Court feels oral argument would not be helpful, the United States has no objection to a decision on the briefs.

Respectfully submitted this 9th day of January, 2008.

JOHN R. GREEN
Interim United States Attorney

By:

CAROL A. STATKUS
NICHOLAS VASSALLO
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the **UNITED STATES' RESPONSE TO MOTION OF DEFENDANT/CROSS-CLAIMANT MARVIN M. BRANDT FOR ORAL HEARING ON CROSS-MOTIONS FOR SUMMARY JUDGMENT** was served upon the following by the method(s) indicated below on the 9th day of January, 2008.

Charles Michael (Steve) Aron
Aron and Henning, LLP
1427 North Fifth Street, Suite 201
Laramie, WY 82072
cma@a-hlaw.com
Attorney for Lawrence and Ginny Otterstein

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

William Perry Pendley
Joshua D. McMahon
Mountain States Legal Foundation
2596 South Lewis Way
Lakewood, CO 80227
wppendley@mountainstateslegal.com
jmcmahon@mountainstateslegal.com
Attorneys for Marvin M. Brandt

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Richard C. Bohling
Albany County Attorney's Office
525 Grand Avenue, Suite 304
Laramie, WY 82070
rbohling@co.albany.wy.us
Attorney for Albany County Commissioners

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

James P. Schermetzler
Albany County Attorney's Office
525 Grand Avenue, Suite 100
Laramie, WY 82070
jschermetzler@co.albany.wy.us
Attorney for Albany County Commissioner

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Karen J. Budd-Falen
Brandon Lee Jensen
Budd-Falen Law Offices LLC
P.O. Box 346
Cheyenne, WY 82003-0346
main@buddfalen.com

*Attorneys for Roger L. Morgan;
Marilyn & David Yeutter; and Ronald B. and
Helen D. Yeutter*

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Philip A. Nicholas
Anthony, Nicholas, Goodrich & Tangeman
P.O. Box 928
Laramie, WY 82073
nicholas@wyolegal.com

*Attorney for Daniel & Susan McNierney and
Breazeale Revocable Trust*

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Theodore C. Preston
Prehoda, Leonard & Hanack, LLC
P.O. Box 789
Laramie, WY 82073-0789
tpreston@laramielaw.com

*Attorney for Patrick R. and Lynda L. Rinker;
and Patricia A. Rinker Flanigin, DuWayne &
Elizabeth Keeney, Kenneth R. Lankford Sr.,
and Kenneth R. Lankford, II*

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Mason F. Skiles
Skiles & Rodriguez
502 South 4th Street
Laramie, WY 82070
*Attorney for Gary & June Williams and
Edmund L. and Donna Ellen Gruber*

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Gay Vanderpoel Woodhouse
Gay Woodhouse Law Office
211 West 19th Street, Suite 308
Cheyenne, WY 82001
gaywoodhouselaw@aol.com
Attorney for Donald & Wanda Graff

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Karl Morell
Ball Janik, LLP
1455 F Street N.W., Suite 225
Washington, D.C. 20005
kmorell@dc.bjllp.com
*Attorney for Wyoming & Colorado Railroad
Company, Inc.*

☐ By Facsimile
☐ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☒ By Electronic Filing

Juan and Susan Torres
3513 Linestone Court
Fort Collins, CO 80525

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Bunn Family Trust
Debra R. Hinkel, Trustee
P.O. Box 1010
Laramie, WY 82073

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Ralph L. Lockhart
P.O. Box 36
Laramie, WY 82073

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Duane and Patricia King
1802 Arnold Street
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Marilyn Flint and Marjorie Secrest
11 French Creek Road
Laramie, WY 82070-9718

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Glenna Louise Marrs Trust
Glenna Marrs and Rondal Wayne, Trustees
376 Gilmore Gulch
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Snowy Range Properties, LLC
1148 State Highway 11
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Ray L. Waits
8736 S. Carr Street
Littleton, CO 80128-6914

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Michael and Sally Palmer
715 S. 11th Street
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Robert S. and Dorothy M. Pearce
David M. Pearce, Steve M. Pearce and
Kathlynn A. Lambert
2990 Plateau Drive
Salt Lake City, UT 84109

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Steven P. And Janis A. Taffe
4062 Hwy 230
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Billy M. and Tobin L. Ratliff
719 South 4th Street
Laramie, WY 82070

☐ By Facsimile
☒ By U.S. Mail - postage prepaid
☐ By Hand Delivery
☐ By Overnight Courier
☐ By Electronic Filing

Kelli R. Kozeal
For the United States Attorney's Office